IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

WP(C).No. 32266 of 2006(N)

PETITIONER:

VENKITA SUBRAMANIAN,
S/O. SURYA NARAYANAN, AGED 67,
CHANIMADAM, THRIPUNITHURA.

ADDL. PETITIONER:

VIJAYAN SUBRAMANIAN,
W/O.LATE VENKITA SUBRAMANIAN,
AGED 64, CHANIMADOM, THRIPUNITHURA.

(ADDL. PETITIONER IS IMPLEADED AS PER ORDER
DT.28.2.2007 IN I.A. NO.2966/2007).

BY ADV. SRI.K.R.SUNIL

RESPONDENTS:

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1. THE ADDITIONAL DIVISIONAL MAGISTRATE,
CIVIL STATION BUILDING, KAKKANAD, ERNAKULAM.

2. THE ASST. EXECUTIVE ENGINEER,
KERALA STATE ELECTRICITY BOARD,
THRIPUNITHURA-682 301.

3. RINAZ NAZIR, S/O. NAZIR,
AGED 29, C.C.NO.13/1158 A, R.K.PILLAI ROAD,
THOPPUMPADY, COCHIN-682 005.

R2 BY ADV. SRI.P.P.THAJUDEEN, SC, KSEB
R3 BY ADV. SRI.SHEEJO CHACKO
SRI.M.N.MANOJ
SRI.PRASANTH K.DIVAKARAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF THE REQUEST DT.28.11.2006, SUBMITTED BY PETITIONER BEFORE R1.

P2: .DO. DT.30.11.2006 .DO. R2.

P3: .DO. DT.28.11.2006 .DO.

P4: CERTIFIED COPY OF ORDER DT.2.12.2006 PASSED BY R1.

P5: TRUE COPY OF LETTER DT.17.7.2006 ISSUED BY R2 TO THE PETITIONER.

RESPONDENT'S EXHIBITS:

R2(a): TRUE COPY OF ORDER ISSUED BY ADM.

R2(b): TRUE COPY OF LETTER FROM ELECTRICAL INSPECTOR.

R2(c): TRUE COPY OF ROUGH SKETCH.

R3(a): TRUE COPY OF SALE DEED BEARING NO.2177/06 OF THRIPUNITHURA SRO.

TRUE COPY

PA TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.32266 of 2006

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Dated this the 3rd day of December, 2007.

JUDGMENT

Heard counsel for the petitioner, Standing Counsel for KSEB and counsel appearing for third respondent. Petitioner is the builder of a shopping complex wherein third respondent purchased a shop room. A separate electric connection was given to third respondent which was objected by petitioner for various reasons. One of the objection was crossing of his property which was overruled by first respondent and connection was given to third respondent. However, petitioner's case is that Board has requested the petitioner to instal a transformer for giving connection to all the shops in the shopping complex as the load is above the limit that requires a transformer. The petitioner has referred to Regulation 8(5) of the Electricity Supply Act. If a transformer is required in the shopping complex by virtue of the load factor, then shop owner should not be given separate connection. If connection is given to third respondent, it is to be necessarily dismantled and connection has to be routed through the transformer to be installed in the building. Even if third respondent has purchased a shop room, connection has to be taken from the transformer

installed for the building as a whole. On the other hand if separate connection can be given to each and every shop owner without the requirement of a transformer, then KSEB is bound to refund the amount deposited by the petitioner towards cost of transformer and give separate connections to all the shop owners on their approaching the Board with application as is done by third respondent. Therefore, the controversy between the petitioner and third respondent will depend upon whether the connection to the shop rooms in the complex can be given through a transformer or not based on the Electricity Supply Act. The second respondent will estimate the load, refer to the Act and Regulations and decide whether transformer is required and if transformer is required, connection should be given to the shop owners from the transformer. However, in view of the dispute between the petitioner and the third respondent, connection to third respondent should be retained as long as transformer is charged and connection is given to the third respondent from the transformer. In other words, there should not be any penal bill or disconnection of power supply to third respondent and second respondent should give fresh connection simultaneously on disconnection of the present connection. So far as the terms of sharing cost of transformer and other installations, the matter has to be settled between the petitioner and third

respondent on which KSEB has no role and if there is any dispute, it is to be settled through civil court. The petitioner will produce copy of this judgment for compliance.

W.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms